

SUHR P001A
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE JUL 31 2007

In re Application of: Suhr, et al.

OFFICE OF PETITIONS

Serial No.: 10/672,124

Group Art Unit: 3734

Filed: 09/26/2003

Examiner: K. Truong

For: Apparatus and Method for Stenting
Bifurcation LesionsHenry C. Query, Jr.
504 S. Pierce Ave.
Wheaton, IL 60187Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450Petition Under 37 CFR 1.313(c)

Applicants hereby petition the Commissioner pursuant to 37 CFR 1.313(c) to withdraw this application from issue so that the Request for Continued Examination (RCE) filed by applicants on June 11, 2007 can be properly considered. (Since the Office is already in possession of the RCE, applicants have not included a copy herewith.)

A Credit Card Payment Form in the amount of \$130.00 is enclosed herewith in payment of the petition fee required under 37 CFR 1.17(h).

This Petition is in response to the Notice of Improper Request for Continued Examination (RCE) dated July 27, 2007, a copy of which is enclosed herewith.

The reasons supporting applicants' request are as follows.

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This application was allowed on March 28, 2006. In the Notice of Allowability the Examiner canceled claims 9-13 pursuant to an authorization given by the undersigned in a telephone interview with the Examiner on March 20, 2006. The Examiner indicated that the amendment was necessary because claims 9-13 were directed to a separate invention and, further, because claim 9 was indefinite due to its dependence on claim 1.

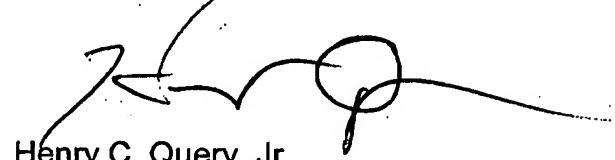
In an Amendment After Allowance dated April 25, 2006, applicants proposed to reintroduce claims 9-13 and amend claim 9 to specifically incorporate the structural limitations of claim 1. However, in a Response to Rule 312 Communication dated May 31, 2007, the Examiner disapproved this amendment because prosecution on the application had already been closed.

In a telephone interview with the Examiner dated June 7, 2007, the Examiner informed the undersigned that applicants could file a Request for Continued Examination in a further attempt to have claims 9-13 reintroduced into the application on the basis of the proposed amendment to claim 9.

Accordingly, on June 11 applicants filed the RCE and an accompanying amendment for the purpose of reintroducing claims 9-13 into the application. Although applicants are aware that the option exists to file a divisional application for claims 9-13, such an action would delay the issuance of these claims and subject applicants to additional costs. In addition, the processing and examination of a divisional application would require the expenditure of considerable time and effort by the Patent Office.

For the foregoing reasons, applicants respectfully request that the
Commissioner grant this Petition.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Henry C. Query, Jr.', with a long horizontal flourish extending to the right.

Henry C. Query, Jr.
Reg. No. 35,650
(630) 260-8093

Date: July 31, 2007

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HENRY C. QUERY, JR.

Patent Attorney At Law

OFFICE OF PETITIONS**FACSIMILE TRANSMITTAL SHEET**

TO:	FROM:
Office of Petitions	Henry C. Query, Jr.
COMPANY:	DATE:
Commissioner for Patents	July 31, 2007
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
571-273-0025	7

SUBJECT:


U.S. Patent Application No. 10/672,124
Inventor(s): Suhr et al.
Filed: 09/26/2003
For: Apparatus and Method for Stenting Bifurcation Lesions
Attorney Docket No.: SUHR-P001A

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Dear Sir:

Enclosed in connection with the above-referenced application is a **Petition Under 37 CFR 1.313(c)**.

Sincerely,


Henry C. Query, Jr.**Certificate of Facsimile Transmission Under 37 CFR 1.8**

I hereby certify that this correspondence, consisting of 7 total pages, is being facsimile transmitted to the U.S. Patent and Trademark Office on July 31, 2007.


Henry C. Query, Jr.

504 S. Pierce Avenue, Wheaton, IL 60187 Phone: (630) 260-8093 Fax: (630) 260-8076



UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,124	09/26/2003	William S. Suhr	SUHR-P001A	7759
Henry C. Query, Jr. 504 S. Pierce Avenue Wheaton, IL 60187				
7590 07/27/2007				
EXAMINER				
TRUONG, KEVIN THAO				
ART UNIT		PAPER NUMBER		
3734				
MAIL DATE		DELIVERY MODE		
07/27/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Commissioner for Patents
United States Patent and Trademark OfficeP.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

APPLICATION NUMBER

FILING DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO./TITLE

10/672124

DATE MAILED:

NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)

The request for continued examination (RCE) under 37 CFR 1.114 filed on 6/11/07 is improper for reason(s) indicated below:

- ☐ 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d). An RCE cannot be treated as a CPA.
- ☐ 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b).
- ☐ 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
- ☒ 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- ☐ 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on _____. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- ☐ 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- ☐ 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

Note: A continued prosecution application (CPA) under 37 CFR 1.53(d) cannot be filed in a utility or plant application. A CPA filed in a utility or plant application that has a filing date on or after June 8, 1995 will be treated as an RCE under 37 CFR 1.114. The request for a CPA in the instant application, however, has been treated as an improper RCE for the reason(s) indicated above.

A copy of this notice MUST be returned with any reply.

Direct the reply and any questions concerning this notice to:

E. J. Patten
871-272-4382

Technology Center 3700